

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TYRONE MASSEY,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

20-CV-5884 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff, currently incarcerated at Mid-Hudson Psychiatric Center, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants denied him medical care while he was detained in the George R. Vierno Center (GRVC) on Rikers Island. For the following reasons, the complaint is dismissed.

Plaintiff has submitted to this Court a complaint with substantially similar claims that is pending under case number 20-CV-5665 (GBD).¹ Because this complaint raises the same claims against defendants named in that action, no useful purpose would be served by the further litigation of this duplicate lawsuit. Therefore, this action is dismissed without prejudice to Plaintiff's pending action under case number 20-CV-5665 (GBD).

¹ Plaintiff asserts in both actions that on May 5, 2020, Defendants denied him medical care while he was detained in GRVC. In the case under docket number 20-CV-5665, he names as defendants the New York City Department of Correction (DOC), the City of New York, Correction Officers Palmenteri and Ho, and two John Doe defendants. In this action, he again names the City of New York and DOC, along with Captain Johnson and a John Doe defendant. Plaintiff now identifies Captain Johnson as one of the John Doe defendants previously named in 20-CV-5665. But as Plaintiff can amend his complaint under case number 20-CV-5665 to name Captain Johnson – on August 13, 2020, Judge Daniels directed the New York City Law Department, as counsel for DOC, to identify the John Doe defendants in that action, *see* ECF 1:20-CV-5665, 8 – there is no need to proceed with this duplicate action.

In light of the Court's belief that Plaintiff may have submitted this complaint in error, the Clerk of Court shall not charge Plaintiff the \$350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. Plaintiff's complaint is dismissed without prejudice as duplicative. All other pending matters are terminated.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: August 17, 2020
New York, New York

A handwritten signature in black ink, appearing to read 'Colleen McMahon', is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge